



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R04-OAR-2021-0188; FRL-9775-01-R4]**

#### **Air Plan Approval; Kentucky; Source Specific Changes for Jefferson County**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet (Cabinet), on March 4, 2020, and supplemented on January 28, 2022. The proposed changes were submitted on behalf of the Louisville Metro Air Pollution Control District (District), which has jurisdiction over Jefferson County, Kentucky, and make changes to a Reasonably Available Control Technology (RACT) determination for a specific major source of nitrogen oxides (NO<sub>x</sub>) and volatile organic compound (VOC) emissions. EPA is proposing to approve these changes as they are consistent with the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2021-0188 at [www.regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or

comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Joel Huey, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Huey can be reached by telephone at (404) 562-9104 or via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. EPA's Proposed Action**

EPA is proposing to approve changes to the Kentucky SIP that were received by EPA on March 4, 2020 and supplemented on January 28, 2022. Approval of this submission would incorporate Board Order – Amendment 2, issued by the Air Pollution Control Board of Jefferson County (Board) for American Synthetic Rubber Company (ASRC), into the SIP. This amended Board Order<sup>1</sup> would replace in the SIP the existing Board Order issued by the Board for ASRC. The amended Board Order and EPA's rationale for proposing to approve it into the SIP are described in detail below.

### **II. Background and EPA's Analysis of the Proposed Revisions**

Three counties in the Louisville area (Jefferson County in Kentucky and Clark and Floyd Counties in Indiana) were designated as nonattainment for ozone in March 1978 (43 FR 8962). On November 6, 1991 (56 FR 56694), after the CAA Amendments of 1990 were enacted, Jefferson County and portions of Bullitt and Oldham Counties in Kentucky and the Indiana

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<sup>1</sup> A Board Order issued by the Board is a regulatory instrument which specifies air pollution control limits or requirements for a specific source or company. See 66 FR 53665, 53671 (October 23, 2001) (Response 2I).

Counties of Clark and Floyd were designated as the Louisville Moderate ozone nonattainment area (Louisville Area) under section 107(d)(4)(A) as a result of monitored violations of the 1979 1-hour ozone national ambient air quality standards (NAAQS) during 1987–1989.<sup>2</sup>

Section 182(b)(2) of the CAA requires states to adopt RACT for all major stationary sources of VOC in Moderate and above ozone nonattainment areas. Section 182(f) of the CAA requires that the same provisions for major stationary sources of VOC shall also apply to major stationary sources of NO<sub>x</sub>. Therefore, pursuant to section 182(f), RACT is a requirement, with certain exceptions described therein, for major sources of NO<sub>x</sub> in ozone nonattainment areas where VOC RACT applies.

To comply with the NO<sub>x</sub> RACT requirement, which was a result of the Moderate nonattainment area designation for the 1-hour ozone NAAQS, the District submitted Jefferson County Air Quality Regulation 6.42, *Reasonably Available Control Technology Requirements for Major Volatile Organic Compound- and Nitrogen Oxides-Emitting Facilities*, to EPA approval.<sup>3</sup> Regulation 6.42 requires the establishment and implementation of RACT, including the determination and demonstration of compliance with RACT, for certain emission units located at a major stationary source of NO<sub>x</sub> or VOC emissions and requires that each determination of RACT approved by the District be submitted to EPA as a source-specific revision to the Kentucky SIP. RACT is defined at paragraph 1.66 of District Regulation 1.02 as meaning “devices, systems, process modifications, or other apparatus or techniques, including pollution prevention approaches, that are reasonably available taking into account the necessity of imposing those controls in order to attain and maintain a national ambient air quality standard and the social, environmental, and economic impact of those controls.”

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<sup>2</sup> The Louisville Area was subsequently redesignated to attainment for the 1979 1-hour ozone NAAQS. See 66 FR 53665 (October 23, 2001). More recently, the Louisville Area was designated as Marginal nonattainment for the 2015 ozone NAAQS. See 83 FR 25776 (June 4, 2018).

<sup>3</sup> EPA incorporated Regulation 6.42 into the Jefferson County portion of the Kentucky SIP on October 23, 2001. See 66 FR 53658.

As discussed in EPA's June 22, 2001 (66 FR 33505), proposal to redesignate the Louisville Area to attainment for the 1979 1-hour ozone NAAQS, Regulation 6.42 has been implemented in part by means of Board Orders adopted by the Air Pollution Control Board of Jefferson County. Such Board Orders contain NO<sub>x</sub> RACT and VOC RACT plans, which set forth RACT requirements for the source, including monitoring, recordkeeping, and reporting requirements, as attachments.

ASRC, owned by Michelin North America, Inc., provides electrical power to its facility by operating two coal-fired boilers and two natural gas-fired boilers that are subject to the RACT requirements of Regulation 6.42. The original Board Order for ASRC was approved by the Board on December 20, 2000, and subsequently submitted to EPA as a source-specific revision to the Kentucky SIP. The Board Order, approved by EPA on October 23, 2001 (66 FR 53665), includes as an attachment a RACT plan which restricts the allowable emissions of NO<sub>x</sub> (expressed as NO<sub>2</sub>) from (coal-fired) Boiler No. 1 and Boiler No. 2 to 0.50 pound per million British thermal units (lb/MMBtu) of heat input each, based upon a 30-day rolling average and which applies at all times. The RACT plan also restricts allowable emissions of NO<sub>x</sub> (expressed as NO<sub>2</sub>) from (natural gas-fired) Boiler No. 3 and Boiler No. 4 to 0.20 lb/MMBtu of heat input each, which applies at all times.

On August 1, 2019, ASRC submitted a proposed RACT plan to the District for three new boilers, referred to as Boilers B5, B6, and B7, that are planned to be constructed to replace the facility's existing Boiler Nos. 1, 2, 3, and 4. The Board approved Board Order – Amendment 1 on November 20, 2019. Board Order – Amendment 1 includes as an attachment a revised RACT plan that addresses RACT for both NO<sub>x</sub> and VOC emissions.<sup>4</sup> On March 4, 2020, the District, through the Cabinet, submitted a SIP revision to EPA to replace the existing Board Order for ASRC with Board Order – Amendment 1. On November 17, 2021, the Board approved Board

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<sup>4</sup> The existing SIP-approved Board Order does not include VOC RACT requirements.

Order – Amendment 2, which includes an updated RACT plan.<sup>5</sup> On January 28, 2022, the District, through the Cabinet, submitted to EPA a supplement to the March 4, 2020, SIP revision to replace Board Order – Amendment 1 with Board Order – Amendment 2.

The revised RACT plan attached to Board Order – Amendment 2 contains two sections: Section A, which applies to the facility’s existing boilers (Boiler Nos. 1, 2, 3, and 4), and Section B, which applies to the facility’s planned new boilers (B5, B6, and B7). Section A consists of the same provisions as the original Board Order of December 20, 2000, and includes the same NO<sub>x</sub> emission limits (summarized above) for the existing boilers that are currently incorporated into the SIP. EPA proposes approval of Section A of the revised RACT plan because it does not alter the existing SIP-approved provisions for Boiler Nos. 1, 2, 3, and 4.

Section B of the revised RACT plan contains NO<sub>x</sub> RACT and VOC RACT provisions for the new boilers (B5, B6, and B7) that are planned to be constructed. To comply with the VOC RACT provisions of Regulation 6.42, Section B includes the following requirements, which were developed as part of the construction permit<sup>6</sup> issued for the new boilers:<sup>7</sup>

(a) Paragraph 1.A. of Section B requires the VOC emissions from each Boiler (B5, B6, and B7) to be limited by implementation of good combustion and operating practices including the selection of efficient burners, implementation of combustion controls to optimize efficiency, and use of insulation media to minimize heat losses.

(b) Paragraph 1.B. of Section B requires ASRC to comply with the tune-up requirements of 40 CFR 63.7540(a)(10)<sup>8</sup> on an annual basis, prescribes six specific annual preventative

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<sup>5</sup> Specifically, the RACT plan was updated to include revised NO<sub>x</sub> monitoring requirements that are better suited to the 30-day rolling average NO<sub>x</sub> limit for the new boilers.

<sup>6</sup> The authority for ASRC to construct new boilers B5, B6 and B7 was approved by the District through issuance of construction permit C-0011-19-0028-V, issued on January 21, 2020. That permit is included in the docket for this proposed rulemaking, but the permit itself was not included in the SIP revision and EPA is not proposing to incorporate it into the SIP.

<sup>7</sup> Pursuant to the Board Order, Section A shall no longer apply to a boiler once ASRC provides written notification to the District that the boiler has been decommissioned.

<sup>8</sup> This reference, 40 CFR 63.7540(a)(10), is from the continuous compliance provisions of 40 CFR part 63, subpart DDDDD—*National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters*. Although boilers B5, B6, and B7 will be subject to the requirements of subpart DDDDD, Regulation 6.42 does not provide any exemption from the NO<sub>x</sub> and VOC RACT requirements of the SIP on this basis.

maintenance steps, and requires the facility to maintain on-site and submit, if requested by the Administrator, a report containing information regarding burner efficiency before and after the tune-up of the boiler and a description of any corrective actions taken as a part of the tune-up.

For NO<sub>x</sub> RACT, the District has adopted requirements that are similar to the existing SIP-approved requirements for Boiler Nos. 1, 2, 3, and 4, but with significantly lower NO<sub>x</sub> emission limits. To comply with the NO<sub>x</sub> RACT provisions of Regulation 6.42, Section B includes the following requirements for the new boilers:

(a) Paragraph 2 of Section B provides that NO<sub>x</sub> emissions (expressed as NO<sub>2</sub>) are not to exceed 0.04 lb/MMBtu for each boiler, based upon a 30-day rolling average. This NO<sub>x</sub> limit for the three new natural gas-fired boilers is significantly more stringent than the current limits for the four existing boilers (i.e., 0.50 lb/MMBtu for coal-fired Boilers Nos. 1 and 2 and 0.20 lb/MMBtu for natural gas-fired Boilers Nos. 3 and 4). In addition, the new boilers are to be rated at 200 MMBtu/hr each (totaling 600 MMBtu/hr of heat input capacity), while the boilers being replaced are rated at 212 MMBtu/hr each for Boiler Nos. 1 and 2 and 99 MMBtu/hr each for Boiler Nos. 3 and 4 (totaling 622 MMBtu/hr of heat input capacity), therefore resulting in an overall decrease of 22 MMBtu/hr of total heat input capacity.

(b) Paragraphs 3 and 4 of Section B are the same as paragraphs 5.A. and 5.B., respectively, of the existing approved Board Order for ASRC (except for referencing the new boiler numbers and the addition of a reference to the VOC RACT plan) and therefore do not represent a change to existing requirements currently incorporated into the SIP. These paragraphs pertain to NO<sub>x</sub> performance testing requirements.

(c) Paragraph (5) of Section B requires ASRC to conduct an initial performance test and perform ongoing emissions verification on a 30-day rolling basis, pursuant to 40 CFR part 60, subpart Db, *Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units*. After the initial compliance test, NO<sub>x</sub> emissions data shall be collected by installing, calibrating, maintaining, and operating either a continuous emissions monitoring

system pursuant to 40 CFR 60.48b(g)(1) or by predicting NO<sub>x</sub> emission rates pursuant to 40 CFR 60.48b(g)(2).

(d) Paragraph 6 of Section B is the same as paragraph 5.C. of the existing approved Board Order for ASRC and therefore does not represent a change to existing requirements currently incorporated into the SIP. This paragraph pertains to NO<sub>x</sub> performance testing requirements.

(e) Paragraphs 7 and 8 of Section B are new requirements to help improve boiler efficiency. Paragraph 7 requires the facility to perform and make a record of non-routine boiler maintenance activities, including inspection and maintenance of the fuel combustion system, inspection and optimization of the flame pattern, inspection and adjustment of the combustion control system, adjustment of the air-to-fuel ratio, and inspection and adjustment of all other components of the boiler. These maintenance activities shall be completed annually within 13 months of the previous maintenance cycle. Paragraph 8 requires ASRC to include in each semi-annual report (required by paragraph 9) a summary of the non-routine boiler maintenance activities.

(f) Paragraphs 9 and 10 of Section B are the same as paragraphs 6 and 7, respectively, of the existing SIP-approved Board Order for ASRC (except for minor wording changes and that they now apply not just to NO<sub>x</sub> but also to VOC by virtue of the addition of the VOC RACT requirements) and therefore do not represent a change to existing requirements currently incorporated into the SIP. Paragraph 9 pertains to the requirement to keep a record identifying all deviations from the requirements of the NO<sub>x</sub> and VOC RACT plan and to submit semiannual deviation reports to the District. Paragraph 10 provides that the facility may comply with alternatives to the requirements of the NO<sub>x</sub> and VOC RACT plan, provided certain conditions are met, but that the District's approval of any such alternative requirements is not binding on EPA.

In summary, EPA proposes to approve Board Order – Amendment 2, including the attached VOC/NO<sub>x</sub> RACT Plan, dated November 17, 2021, and issued by the Board to ASRC to replace the existing Board Order for ASRC, and to incorporate Board Order – Amendment 2 into the SIP because it achieves at least the same level of NO<sub>x</sub> emission reductions as the previously SIP-approved Board Order and meets the VOC RACT requirements of Regulation 6.42 (discussed in Section II, above). ASRC’s replacement of two existing coal-fired boilers and two existing natural gas-fired boilers with three new natural gas-fired boilers will achieve NO<sub>x</sub> and VOC emission reductions at the facility, and there are no potential air pollutant emission increases associated with this proposed SIP revision. EPA is proposing to approve these changes because they are consistent with SIP-approved Jefferson County Air Quality Regulation 6.42 and with the CAA.

### **III. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Board Order – Amendment 2, including the attached VOC/NO<sub>x</sub> RACT Plan, for ASRC effective November 17, 2021. Also, in this document, EPA is proposing to remove the Board Order for ASRC effective January 1, 2001, from the Kentucky State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the State Implementation Plan generally available at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

### **IV. Proposed Action**

EPA is proposing to replace the existing Board Order in the Kentucky SIP for ASRC with Board Order – Amendment 2, including the attached VOC/NO<sub>x</sub> RACT Plan, for ASRC effective November 17, 2021, for the reasons stated above.



## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Incorporation by reference, Reposting and recordkeeping requirements, Ozone, Nitrogen oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 19, 2022.

**Daniel Blackman,**  
*Regional Administrator,*  
*Region 4.*

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